



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/166996

PRELIMINARY RECITALS

Pursuant to a petition filed July 01, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on July 22, 2015, at Sheboygan, Wisconsin.

The issue for determination is whether Petitioner's FoodShare allotment has been correctly calculated.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Mitch Birkey

Sheboygan County Department of Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. Petitioner filed this appeal to contest the calculation of his FoodShare allotment. An increase in his rent from \$232.00 to \$313.00 did not result in an increase in his FoodShare allotment.
3. Petitioner receives a FoodShare allotment of \$16.00 per month.
4. Petitioner's household size is 1.

5. The agency determined Petitioner's household income to be \$1111.91 per month with \$1111.00 attributable to Social Security benefits and \$.91 to earned income (for MAPP eligibility).
6. Petitioner was given credit for the following expenses in the FoodShare allotment calculation: a standard deduction of \$155.00, an earned income deduction of \$.18, rent costs of \$313.00 and a standard utility allowance of \$446.00. He does not receive a Medicare Part A and B premium deduction as it is paid by the State.

DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits, typically 200% of the Federal Poverty Level. 200% of the FPL for a household of 1 is \$1946.00 See *FoodShare Wisconsin Handbook (FSH)*, §8.1.1.1. The gross income test does not apply where a household has an elderly, blind or disabled (EBD) member but if income is in excess of 200% of the FPL, a net income test applies. 7 *Code of Federal Regulations (CFR)*, §273.9(b); *FoodShare Wisconsin Handbook (FSH)*, § 1.1.4. The agency must budget all income of the FoodShare household, including all earned and unearned income. 7 *CFR* § 273.9(b); *FSH*, § 4.3.1.

The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH*, §4.1.1. Once income is gross household income is determined eligibility and, if eligible, allotment levels are determined. Because Petitioner is an EBD household and his gross income is less than 200% of the Federal Poverty level he does not have a net income test. Thus he is eligible for the minimum allotment of \$16.00. *FSH*, §7.1.1.4. If it were not for that categorical eligibility he would not be eligible as he would not pass the net income test. See Exhibit # 4 and note the following formula:

- (1) a standard deduction - which currently is \$155 per month for a household of 1-3 persons, 7 *CFR* § 273.9(d)(1);
- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR* § 273.9(d)(2);
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 *CFR* § 273.9(d)(3);
- (4) dependent care deduction for child care expenses, 7 *CFR* § 273.9(d)(4); and
- (5) shelter and utility expenses deduction – the utility expense requires that a household have an actual utility obligation and is a standard deduction based on that obligation (\$446.00 where there is a heat obligation); the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR* § 273.9(d)(5). There is a cap of \$478.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH*, §§ 4.6.7.3 and 8.1.3.

In reviewing the current calculation of Petitioner's FoodShare allotment I do not find any errors in the final allotment determination. Given Petitioner's income and deductions, the correct monthly FoodShare allotment is \$16.00. *FSH*, §8.1.2.

As a final note, a reported change in income or expenses can affect the FoodShare allotment in the month following the report of the change so if any of Petitioner's financial circumstances change (as an example – additional medical expenses) he should report the change as soon as possible. *FSH*, §6.1.3.3.

CONCLUSIONS OF LAW

That the available evidence is sufficient to demonstrate that the agency correctly calculated Petitioner's FoodShare at \$16.00.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

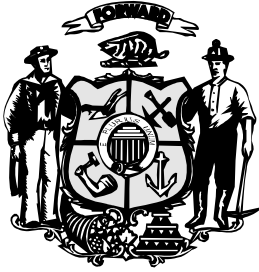
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 25th day of August, 2015

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 25, 2015.

Sheboygan County Department of Human Services
Division of Health Care Access and Accountability